

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JERRY BROWN,)	
)	
Plaintiff,)	
)	
v.)	No. 07 C 7080
)	
ILLINOIS DEPARTMENT OF)	Honorable James B. Zagel
NATURAL RESOURCES,)	
)	Magistrate Judge Valdez
)	
Defendant.)	

**DEFENDANT’S MOTION TO STRIKE PLAINTIFF’S
RESPONSE TO DEFENDANT’S MOTION TO DISMISS AND FOR
AN ENLARGEMENT OF TIME TO ANSWER OR OTHERWISE PLEAD**

Defendant, ILLINOIS DEPARTMENT OF NATURAL RESOURCES, (“IDNR”), by and through its attorney, LISA MADIGAN, Attorney General of Illinois, hereby submits its Motion to Strike Plaintiff’s Response to Defendant’s Motion to Dismiss and for Enlargement of Time to Answer or Otherwise Plead. In support of its motion, Defendant states as follows:

1. IDNR is named as Defendant in Plaintiff’s Complaint, Case No. 07 C 7080, which he originally filed on December 17, 2007 against IDNR and several individual employees. Plaintiff’s original Complaint alleged discrimination on the basis of his race, national origin, ancestry and color, and retaliation, in violation of Title VII of the Civil Rights Act of 1964.

2. On June 20, 2008, this court granted in part and denied in part Defendants’ Motion to Dismiss, dismissing the individually named defendants, and

allowing Plaintiff until August 8, 2008 to file an Amended Complaint to correct certain legal and factual deficiencies.

3. Plaintiff filed an Amended Complaint on August 8, 2008, along with a separate “Response to Defendant’s Motion to Dismiss Plaintiff’s Complaint at Law,” though this court previously ruled on the Motion to Dismiss on June 20, 2008. Plaintiff did not request leave to file a Response to the Motion to Dismiss, and at no time did the court grant Plaintiff leave to do so. Plaintiff’s Response to Defendant’s Motion to Dismiss also is unnecessary and superfluous – given the fact that the court already ruled on the Motion to Dismiss and Plaintiff has now filed an Amended Complaint, superseding his original Complaint. Thus, the court should strike Plaintiff’s Response in its entirety.

4. Under the Federal Rules of Civil Procedure 15(a), IDNR must answer or otherwise plead within ten (10) days of the filing of Plaintiff’s Amended Complaint, or by August 18, 2008.

5. In his Amended Complaint, Plaintiff raises detailed factual allegations and incorporates allegations from a second EEOC charge of discrimination that were not included in his original Complaint. In order to properly respond to the Amended Complaint, the undersigned counsel will be required to conduct an investigation by conferring with IDNR and obtaining relevant documents.

6. In addition, counsel for IDNR has a Motion for Summary Judgment due on August 14, 2008 in *Jerry Brown v. Illinois Dept. of Natural Resources*, 05 C 2460, before the Honorable Judge Shadur. Counsel for IDNR also has responsive pleadings due on August 13, 2008 in *Dana Malone v. Illinois Dept. of Corrections, et al.*, before the

Honorable Judge Kennelly. Counsel will be out of the office during the week of August 18, 2008.

7. Accordingly, Defendant respectfully requests an additional 21 days, or until September 8, 2008 to file its answer or other responsive pleading to Plaintiff's Amended Complaint.

8. This enlargement of time to answer or otherwise plead will not prejudice the Plaintiff, nor does Defendant make this request to delay these proceedings.

WHEREFORE, Defendant, ILLINOIS DEPARTMENT OF NATURAL RESOURCES, prays that this Court strike Plaintiff's Response to Defendant's Motion to Dismiss, and grant Defendant an enlargement of time, up to and including September 8, 2008, to answer or otherwise plead to Plaintiff's Amended Complaint.

LISA MADIGAN
Illinois Attorney General

Respectfully submitted,

**ILLINOIS DEPARTMENT OF NATURAL
RESOURCES,**
Defendant,

By: s/ Mary M. Madden

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